

46571

SERVICE DATE – AUGUST 24, 2018

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36206]

Decatur & Eastern Illinois Railroad, L.L.C.—Acquisition Exemption Containing
Interchange Commitment—CSX Transportation, Inc.

Decatur & Eastern Illinois Railroad, L.L.C. (DEIR), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire and operate approximately 126.7 miles of track (the Line) owned by CSX Transportation, Inc., (CSXT), consisting of: (1) CSXT's Decatur Subdivision starting near Montezuma, Ind., at milepost BD 192.4 and ending in Decatur, Ill., at milepost BD 277.2; (2) CSXT's Danville Secondary Subdivision from near Terre Haute, Ind., at milepost QSD 72.2 to near Olivet, Ill., at milepost QSD 113.6; and (3) CSXT's Paris Industrial Track located in Paris, Ill. As part of the transaction, CSXT will also assign its trackage rights over Illinois Central Railroad Company (IC) between the Decatur Street road crossing at or near milepost 77.7 and milepost 76.7 on IC's Peoria Subdivision, including IC's connection with CSXT between milepost 30.5 and milepost 28.6 on IC's Peoria Subdivision, and between IC's lead track from its connection to the Green Switch Spur to IC's connection with the ADM Run-Around-Yard at Decatur, Ill., on IC's Peoria Subdivision, a total distance of approximately 3.6 miles.

This transaction is related to a concurrently filed verified notice of exemption in Watco Holdings, Inc.—Continuance in Control Exemption—Decatur & Eastern Illinois

Railroad, Docket No. FD 36209, in which Watco Holdings, Inc., seeks Board approval to continue in control of DEIR upon DEIR's becoming a Class III rail carrier.

The verified notice states that DEIR and CSXT will enter into a Purchase and Sale Agreement and a Freight Operating Agreement prior to closing, and that DEIR will be the operator of the acquired rail lines. As required by 49 C.F.R. § 1150.33(h), DEIR has disclosed in its verified notice that the Freight Operating Agreement contains an interchange commitment that would require DEIR to pay additional compensation to CSXT if DEIR interchanges traffic with a third-party rail carrier and that the affected interchange points are Decatur, Metcalf, and Tuscola, Ill. DEIR has provided additional information pertaining to the interchange commitment as required by § 1150.33(h).¹

DEIR certifies that its projected annual revenues resulting from the transaction will not exceed those that would qualify it as a Class III rail carrier. However, DEIR states that its projected annual revenues will exceed \$5 million. Accordingly, in compliance with 49 C.F.R. § 1150.32(e), on July 6, 2018, DEIR posted the required 60-day labor notice of this transaction at the workplaces of CSXT employees on the affected Line, served notice on the national offices of the labor unions for those employees, and filed a letter with the Board certifying its compliance with the advance notice requirements.

¹ DEIR lists "Canadian National Railway" (CNR) as one of the third-party railroads that could physically interchange with the line sought to be acquired. The Board notes that the correct reference should be to Illinois Central Railroad Company (IC) – the CNR subsidiary over which DEIR will be assigned 3.6 miles of trackage rights (as described above) and the only CNR affiliate operating in the affected region.

The transaction may be consummated on or after September 8, 2018, the effective date of the exemption (30 days after the verified notice was filed).²

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than August 31, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36206, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy must be served on Karl Morell, Karl Morell & Associates, Suite 440, 440 1st Street, N.W., Washington, DC 20001.

According to DEIR, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

Board decisions and notices are available on our website at www.stb.gov.

Decided: August 17, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

² The verified notice states that the transaction is expected to be consummated on or about September 6, 2018, however, consummation of the transaction must await the effective date of the exemption.